IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 758 OF 2007
IN
CRIMINAL APPEAL NO. 613 OF 2007

Ritesh Mahadev Dakhale ..Applicant
Vs.
State of Maharashtra ..Respondent

Mr. Rebecaa Gonsalvez & Vijay Hiramath for applicant.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 06, 2007.

P.C.:

1. Heard. The applicant-accused no.6 came to be convicted and sentenced by the learned 12th Ad-hoc Additional Sessions Judge, Gr. Bombay at Sewree in Sessions Case No. 410 of 2004 as per the Judgment and Order dated 30/10/2006 and for the offences punishable under Sections 201 read with Section 120-B and under Section 212 read with Section 120-B of IPC and on both the counts he has been sentenced to suffer RI for one year and to pay a fine of Rs.1000/- in default SI for one month. The learned counsel for the applicant states that the amount of fine has been deposited and receipt to that effect has been issued on 31/10/2006 by the Registry of the trial court.

2. The applicant, therefore, seeks direction for his immediate release on the ground that he has already been in jail for more than one year i.e. in excess of the sentence period.

3. There is no dispute that the applicant came to be arrested on 14/3/2004 and he was released on bail on 4/9/2004. Thus, he was in jail during the trial for five months and 20 days. After the order of conviction and sentence was pronounced on 30/10/2006 he was immediately taken in custody and since then he has been in jail. He has thus undergone the sentence of 5 months and 20 days plus 8 months and 7 days. Undoubtedly, he is entitled for set off under Section 428 of Cr.P.C. and consequently the sentence period has been more than 13 months.

4. Hence the application is allowed and it is directed that the Superintendent of Central Prison at Thane shall release the applicant forthwith unless he is required to be detained in some other criminal cases.

(B.H. Marlapalle,J.)